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Counterclaimant Apple Inc.*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

EPIC GAMES, INC.,

Plaintiff, Counter-defendant,

vs.

APPLE INC.,

Defendant, Counterclaimant.

No. 4:20-CV-05640-YGR-TSH

**STIPULATION AND PROPOSED
ORDER RE TRIAL STIPULATIONS**

Trial Date: May 3, 2021
Time: 8:00 a.m.
Courtroom: 1, 4th Floor
Judge: Hon. Yvonne Gonzalez Rogers

1 Pursuant to the Court's Standing Order Re: Pretrial Instructions in Civil Cases and
2 Pretrial Order No. 2 (ECF No. 381), Plaintiff and Counter-defendant Epic Games, Inc. ("Epic"),
3 and Defendant and Counterclaimant Apple Inc. ("Apple"), together, the "Parties", by and through
4 their undersigned counsel, hereby agree and stipulate to the following:

5 1. Epic will present its opening statement followed by Apple's opening
6 statement.

7 2. To the extent that Parties play a witness's deposition designations at trial,
8 all portions of the testimony designated by any party will be played at the same time, including the
9 Parties' affirmative designations, counter-designations, and counters to counter-designations. All
10 designated testimony will be introduced in the sequence in which the testimony was originally
11 given.

12 3. Pursuant to Federal Rule of Evidence 615, the Parties request and stipulate
13 to an Exclusion Order excluding each fact witness from the courtroom. The Exclusion Order shall
14 apply to any fact witness listed on either Party's witness list until the witness has completed giving
15 his or her testimony during a Party's case-in-chief. While a fact witness is excluded from the
16 courtroom, the witness shall be prohibited from reading any portion of any trial transcript or any
17 other material documenting any witness's testimony, and an excluded witness also shall not
18 remotely view or hear any trial proceedings (including on the Zoom platform or the simultaneous
19 audio stream). The Parties hereby request and stipulate to the exemption of expert witnesses from
20 the Exclusion Order. Each Party may identify an officer or employee who shall not be subject to
21 the Exclusion Order notwithstanding being listed on a Party's witness list.

22 4. Pursuant to the Court's Pretrial Order No. 1 ¶ 3 (ECF No. 371), the Parties
23 have agreed to retain TrialGraphix to host a Zoom platform to facilitate live proceedings. Except
24 as provided in ¶ 3 above, the Zoom platform may be accessed by Court staff, the Parties, their
25 counsel and respective staff during any remote testimony, and any witness who testifies remotely
26 for the purpose of providing such remote testimony. TrialGraphix will coordinate with the Court
27 to provide an audio feed of the proceedings for distribution through the Court's regular channel.
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1 5. The Parties agree to file witness lists with updated will and may call status
2 on April 26, 2021.

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1 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

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3 Dated: April 14, 2021

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1 **PURSUANT TO STIPULATION AND GOOD CAUSE APPEARING, IT IS SO**
2 **ORDERED.**

3
4 DATED: _____

5 HON. YVONNE GONZALEZ ROGERS
6 United States District Judge
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ECF SIGNATURE ATTESTATION

In accordance with Civil Local Rule 5-1, the filer of this document hereby attests that the concurrence of the filing of this document has been obtained from the other signatory hereto.

Dated: April 14, 2021

CRAVATH, SWAINE & MOORE LLP

By: /s/ Katherine B. Forrest

Katherine B. Forrest

*Attorneys for Plaintiff and
Counter-defendant Epic Games, Inc.*